

Regular Session, 2009

SENATE BILL NO. 297

BY SENATOR MORRISH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

MOTOR VEHICLES. Provides relative to abandoned vehicles. (08/15/09)

AN ACT

To amend and reenact R.S. 32:473(A), 1713, and 1714(4) and to enact R.S. 32:1714(8) and (9), 1737, and 1738, relative to the Louisiana Towing and Storage Act; to provide relative to certain definitions; to provide relative to the authority of the office of state police; to provide relative to abandoned vehicles; to provide relative to the costs for removal of abandoned vehicles; to provide relative to penalties for violations; to provide relative to the storage and disposal of abandoned vehicles; to provide for payment of certain towing costs; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 32:473(A), 1713, and 1714(4) are hereby amended and reenacted and R.S. 32:1714(8) and (9), 1737, and 1738 are hereby enacted to read as follows:

§473. Seized vehicles; penalties for illegal parking and for the impounding and detention of vehicles illegally parked

A. All municipalities may adopt ordinances imposing fines, imprisonment, or other penalties on any person for parking, stationing, or abandoning any automobile or other vehicle on the municipal streets in violation of any municipal ordinance or other regulatory law, and such municipalities may further charge for the

1 impounding and detention of vehicles illegally parked in loading, reserved or
2 otherwise restricted zones, no parking areas, or public carrier stands, ~~but the total of~~
3 ~~such charges, including the charge for its removal from the street where it may have~~
4 ~~been situated, and all other charges during the period of storage, shall not exceed~~
5 ~~thirty dollars.~~

6 * * *

7 §1713. Definitions

8 For the purposes of this Chapter, the following terms shall have the following
9 meaning:

10 **(1) "Abandonment of a vehicle" means the leaving behind, desertion, or**
11 **nonattendance of a vehicle by the owner or operator of a vehicle which exceeds**
12 **the maximum period of time as specified in Part IV of Chapter I and Part III**
13 **of Chapter III of this Title.**

14 ~~(1)~~**(2)** "Department" means the Department of Public Safety and Corrections.

15 ~~(2)~~**(3)** "Indirect compensation" means any benefit derived by the tow truck
16 owner or operator as a result of barter, payment, or fees charged for repair work
17 performed on the towed vehicle.

18 ~~(3)~~**(4)** "Owner" means the last registered owner of a vehicle, the holder of any
19 lien on a vehicle, and any other person with an ownership interest in a vehicle.

20 **(5) "Public agency" means the public body or law enforcement agency**
21 **authorizing or requesting the tow of a vehicle.**

22 ~~(4)~~**(6)** "Tow" means pull, winch, carry, or otherwise move a vehicle or
23 equipment other than under its own power with the use of a tow truck.

24 ~~(5)~~**(7)** "Tow truck" means any motor vehicle equipped with a boom or booms,
25 winches, slings, tilt beds, and/or similar equipment designed for the towing and/or
26 recovery of vehicles and other objects which cannot operate under their own power
27 or for some reason must be transported by means of towing.

28 ~~(6)~~**(8)** "Tow truck owner or operator" means any person or entity owning or
29 operating a tow truck service.

§1714. Powers and duties of the office of state police

The Department of Public Safety and Corrections, office of state police, subject to the provisions of the Administrative Procedure Act, shall:

* * *

(4) Make recommendations to the office of motor vehicles in reference to **ordering** the examination, issuance, suspension, or revocation of licenses for tow trucks and operators.

* * *

(8) Authorize or call for the removal of an abandoned or unattended vehicle on any highway.

(9) Subject to oversight by the Senate and House Transportation, Highways and Public Works Committees, the department shall promulgate rules and regulations in accordance with the Administrative Procedure Act as are necessary to implement the provisions of this Chapter. Such rules and regulations shall include, but not be limited to the authority to conduct administrative hearings and investigations, to make reports, issue subpoenas, conduct hearings, and require the production of relevant documents, records, and other articles determined to be necessary in order to implement the provisions of this Section.

* * *

§ 1737. Abandoned vehicles; procedures for removal and storage; penalties; fines

A. The abandonment of a vehicle, or any part thereof, on any highway shall be unlawful and shall subject the registered owner of such vehicle to administrative penalties, including revocation of the vehicle's registration and suspension of the registered owner's driver's license, and costs associated with towing and storage of such vehicle.

(1) If the abandoned vehicle is registered in Louisiana, the law enforcement officer requesting the tow of such vehicle shall remove the license

1 plate from the vehicle and deliver it to the designated person in his agency to
2 receive such plates. If the abandoned vehicle is not registered in Louisiana, the
3 law enforcement officer shall not remove the vehicle's license plate.

4 (2) If the vehicle is not removed within the time allowed under the
5 provisions of R.S. 32:473.1, and is towed and stored pursuant to the provisions
6 of this Chapter, a notice shall be sent pursuant to R.S. 32:1720. In addition to
7 the information required in R.S. 32:1720(B), the notice shall inform the vehicle
8 owner he may be subject to administrative penalties authorized in Subsection
9 A of this Section.

10 (3) If such owner or operator is present at the time the vehicle is towed,
11 such party's name shall be recorded, together with the vehicle's license plate
12 number, vehicle identification number, type, make, and model. Such
13 information shall be retained by the authorized towing or storage facility.

14 (4) The registered owner of the abandoned vehicle shall have a right to
15 an administrative hearing, pursuant to R.S. 32:1720 and 1727, to determine if
16 towing and storage of such vehicle was proper. The owner of the abandoned
17 motor vehicle may provide written evidence to the public agency authorizing the
18 tow to dispute impoundment of the abandoned vehicle. In such cases where the
19 agency finds the vehicle to have been improperly towed or impounded, any valid
20 license plate shall be returned within forty-eight hours, exclusive of legal
21 holidays and weekends, to the last registered owner of the vehicle at no cost to
22 the owner and no cost for towing service and vehicle storage shall be allowed.
23 However, if the owner fails to provide sufficient proof to dispute that the vehicle
24 was improperly towed and stored, the public agency's action shall be final. The
25 records of the public agency documenting the abandonment and removal of the
26 vehicle shall be prima facie proof of the violation. The owner or operator of the
27 vehicle shall have the burden of proving that the vehicle was not abandoned at
28 the time such vehicle was towed. Any action for judicial review of the public
29 agency's review of the evidence submitted by the owner or operator shall be in

1 the same manner and under the same conditions as provided for in R.S. 32:414.

2 (5) Following lapse of thirty days from the date of mailing of the notice
3 required in Paragraph (2) of this Subsection, if the last registered owner of the
4 abandoned vehicle has not filed for an administration hearing or paid penalties
5 and costs as outlined in the notice, the public agency shall request the office of
6 motor vehicle to revoke the vehicle's registration and suspend the abandoned
7 vehicle owner's driver's license. Additionally, the office of motor vehicles may
8 authorize the disposal of the vehicle by the towing and storage operator, in
9 accordance with the provisions of R.S. 32:1728.

10 (6) The abandoned vehicle shall remain impounded until a written
11 release is issued by the public agency and the registration shall remain revoked
12 until the abandoned vehicle's owner pays all fines, fees, and penalties associated
13 with the removal and storage of the abandoned vehicle. Upon receipt of the
14 fines, fees, penalties, and costs of towing and storage of the abandoned vehicle,
15 the vehicle's registration and license plate shall be reinstated by the office of
16 motor vehicles. All fines and fees, excluding reinstatement fees, collected
17 pursuant to this Section shall be deposited into the Louisiana Towing and
18 Storage Fund.

19 (7) The abandoned vehicle shall not be released from impoundment until
20 such time as written proof has been presented to the public agency and to the
21 storage facility indicating all penalties, fees, and fines have been paid and that
22 the vehicle is properly insured and registered in accordance with the law.

23 B. When an abandoned or unattended vehicle is wrecked, damaged,
24 burned, partially dismantled, or when such vehicle, in the interest of public
25 safety, constitutes an imminent hazard or is impeding the flow of traffic, its
26 immediate removal from the highway or private property adjacent to the
27 highway shall be authorized .

28 C. Any person who does not pay all costs assessed for the towing and
29 storage of an abandoned vehicle shall be subject to civil penalties and fees

1 assessed by the Department of Public Safety and Corrections, office of motor
2 vehicles, the penalty authorized in R. S. 32:1725, and the costs of towing and
3 storing the abandoned vehicle. The office of motor vehicles may impose an
4 additional reinstatement fee of one hundred dollars which shall be paid to the
5 office of motor vehicles for the administration and implementation of this
6 Section. This reinstatement fee shall be in addition to other specified fines and
7 costs. Any civil penalty that may be assessed shall be deposited into the
8 Louisiana Towing and Storage Fund.

9 D. The vehicle's owner shall be solely liable to the department for fines,
10 fees, penalties, and towing and storage charges associated with the towing and
11 storage of the abandoned vehicle, unless the owner can provide proof that the
12 vehicle was operated and abandoned without his consent, express or implied, or
13 knowledge. An owner who pays any fines, fees, penalties, and towing and
14 storage charges pursuant to this Section shall have the right to recover the same
15 from the operator.

16 E. Any notice required under the provisions of this Section shall be
17 considered delivered when the department mails by first class to the last
18 registered vehicle owner at the address appearing in the records of the office of
19 motor vehicles.

20 F. Law enforcement agencies, officers, or employees, shall not be liable
21 for damages resulting from any action brought upon by a vehicle owner, vehicle
22 operator, former registered owner or his legal representative, lien holder, or
23 any other person legally entitled to the possession of a vehicle when the vehicle
24 was removed pursuant to this Section.

25 §1738. Payment of Towing Services

26 Funds that are deposited into the Louisiana Towing and Storage Fund
27 created pursuant to R.S. 32:1731 may be used by the public agency to pay the
28 cost of removal of any vehicle when the owner fails or does not seek the return
29 of the vehicle. These payments are limited to towing charges for the removal

1 **of the vehicle from the public roadways. The towing recovery charge is only**
2 **available after the storage facility has successfully disposed of the vehicle in**
3 **accordance with R.S. 32: 1728 or 1728.2 and insufficient funds were secured to**
4 **cover the total cost of towing and storage costs authorized by law.**

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Cathy R. Wells

DIGEST

Present law authorizes municipalities to adopt ordinances imposing fines, imprisonment, or other penalties on any person for parking, stationing, or abandoning any automobile or other vehicle on the municipal streets in violation of any municipal ordinance or other regulatory law. Further authorizes municipalities to charge for the impounding and detention of vehicles illegally parked in loading, reserved or otherwise restricted zones, no parking areas, or public carrier stands, towing and storage fees not to exceed \$30.

Proposed law retains present law, but removes the \$30 maximum fee that can be charged for towing and storage.

Present law provides for definitions relative to the LA Towing and Storage Act.

Proposed law defines "abandonment of a vehicle" as the leaving behind, desertion, or nonattendance of a vehicle by the owner or operator of a vehicle which exceeds the maximum time as defined by law.

Proposed law authorizes DPS&C, office of state police, to call for the removal of an abandoned or unattended vehicle on any highway. Further, requires DPS&C subject to oversight by the Senate and House Transportation, Highways and Public Works Committees, to promulgate rules and regulations in accordance with the APA as are necessary to implement the provisions of proposed law. Such rules and regulation must include, but not be limited to the authority to conduct administrative hearings and investigations, to make reports, issue subpoenas, conduct hearings, and require the production of relevant documents, records, and other articles determined to be necessary for such hearings.

Proposed law prohibits the abandonment of any vehicle or any part of a vehicle on any highway. Proposed law subjects the owner of an abandoned vehicle to administrative penalties, including revocation of vehicle registration and suspension of the owner's driver's license, and payment of costs associated with the towing and storage of the vehicle.

Proposed law requires the law enforcement officer requesting the tow to remove the license plate of each abandoned vehicle registered in LA and to deliver such plate to his agency. If the abandoned vehicle is not registered in LA, the plate is prohibited from being removed.

Proposed law requires a notice to be sent, pursuant to law, to the vehicle's owner of record informing him that he is subject to administrative penalties such as revocation of vehicle registration and suspension of the owner's driver's license, and payment of costs associated with the towing and storage of the vehicle.

Proposed law authorizes the owner of the abandoned vehicle to have an administrative hearing to determine if towing and storage of such vehicle was proper. Proposed law authorizes the owner of the abandoned motor vehicle to provide written evidence to the public agency, which authorized the tow, disputing the impoundment of the abandoned vehicle. Proposed law requires in such cases where the agency finds the vehicle to have

been improperly towed or impounded, to return any valid license plate 48 hours, exclusive of legal holidays and weekends, to the last registered owner of the vehicle at no cost to the owner and no cost for towing service and vehicle storage are allowed. However, if the owner fails to provide sufficient proof to dispute that the vehicle was improperly towed and stored, the public agency's action is final. The records of the public agency documenting the abandonment and removal of the vehicle will be prima facie proof of the violation. Proposed law requires the owner or operator of the vehicle to have the burden of proving that the vehicle was not abandoned at the time such vehicle was towed. Proposed law provides that any action for judicial review of the public agency's review of the evidence submitted by the owner or operator be in the same manner and under the same conditions in accordance with law.

Proposed law requires the public agency to request the office of motor vehicle to revoke the vehicle's registration and suspend the abandoned vehicle owner's driver's license if the last registered owner of the abandoned vehicle does not file for an administration hearing or paid penalties and costs as outlined in the notice within 30 days of the mailing of such notice.

Proposed law authorizes the office of motor vehicles to authorize the disposal of the vehicle by the towing and storage operator in accordance with law.

Proposed law requires the abandoned vehicle to remain impounded until a written release is issued by the public agency and the registration remains revoked until the abandoned vehicle's owner pays all fines, fees, and penalties associated with the removal and storage of the abandoned vehicle. Proposed law requires that upon receipt of the fines, fees, penalties, and costs of towing and storage of the abandoned vehicle, the vehicle's registration and license plate be reinstated by the office of motor vehicles.

Proposed law provides that all fines and fees, excluding reinstatement fees, be deposited into the Louisiana Towing and Storage Fund.

Proposed law prohibits the abandoned vehicle from being released from impoundment until such time as written proof has been presented to the public agency and to the storage facility indicating all penalties, fees, and fines have been paid and that the vehicle is properly insured and registered in accordance with the law.

Proposed law authorizes an abandoned or unattended vehicle that is wrecked, damaged, burned, partially dismantled, or when such vehicle, in the interest of public safety, constitutes an imminent hazard or is impeding the flow of traffic, to be immediately removed from the highway or private property adjacent to the highway.

Proposed law subjects any person who does not pay all costs assessed for the towing and storage of an abandoned vehicle to civil penalties and fees to be assessed by DPS&C, office of motor vehicles, a fine of not more than \$500 or six months in jail, and the costs of towing and storing the abandoned vehicle. Proposed law authorizes the office of motor vehicles to impose an additional reinstatement fee of \$100 to be paid to the office of motor vehicles for the administration and implementation of proposed law.

Proposed law requires that any civil penalty that is assessed be deposited into the LA Towing and Storage Fund.

Proposed law provides that the vehicle's owner is solely liable to the DPS&C for fines, fees, penalties, and towing and storage charges associated with the towing and storage of the abandoned vehicle, unless the owner can provide proof that the vehicle was operated and abandoned without his consent, express or implied, or knowledge. An owner who pays any fines, fees, penalties, and towing and storage charges pursuant to proposed law has the right to recover the same from the operator.

Proposed law provides that law enforcement agencies, officers, or employees, are not be

liable for damages resulting from any action brought upon by a vehicle owner, vehicle operator, former registered owner or his legal representative, lien holder, or any other person legally entitled to the possession of a vehicle when the vehicle was removed pursuant to proposed law.

Proposed law authorizes the funds that are deposited into the LA Towing and Storage Fund to be used by the public agency to pay the cost of removal of any vehicle when the owner fails or does not seek the return of the vehicle. These payments are limited to towing charges for the removal of the vehicle from the public roadways. The towing recovery charge is only available after the storage facility has successfully disposed of the vehicle in accordance with law and insufficient funds were secured to cover the total cost of towing and storage costs authorized by law.

Effective August 15, 2009.

(Amends R.S. 32:473(A), 1713, and 1714(4); adds R.S. 32:1714(8) and (9), 1737, and 1738)